

BEFORE THE DEPARTMENT OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE

IN THE MATTER OF: _____)

TENNESSEE TRUCKING ASSOCIATION,)
SELF INSURANCE GROUP TRUST,)
Respondent.)

No. 03- 127

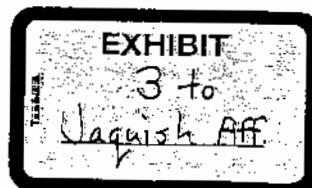
ORDER OF ASSESSMENT

This Order issues upon the authority granted to the Commissioner ("Commissioner") of the Tennessee Department of Commerce and Insurance ("Department") pursuant to Tenn. Code Ann. § 50-6-405 and Tenn. Comp. R. & Regs. 0780-1-54-18(3). This Order is predicated upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Commissioner has jurisdiction over this matter, pursuant to Tenn. Code Ann. § 50-6-405. The Department's official place of business is located at 500 James Robertson Parkway, Nashville, Tennessee 37243.

2. The Respondent, Tennessee Trucking Association Self-Insurance Group Trust ("TTA" or the "Respondent"), is a trust organized under the laws of the State of Tennessee whose address and principal place of business is located at 7135 Centennial Place, Nashville, Tennessee 37209. TTA is a workers' compensation self-insurance group holding a certificate of approval from the Department, pursuant to Tenn. Code Ann. § 50-6-405(c).



3. The Department has conducted a financial examination ("Examination") of the condition and affairs of TTA, pursuant to Tenn. Comp. R. & Regs. 0780-1-54-.06 (a copy of the Report of Examination of the Workers' Compensation Self-Insurance Group Fund of TTA is attached hereto and marked as Exhibit 1). TTA provided the Department with an independently audited financial statement for year ending December 31, 2002 that indicates there is a deficit of two million eight hundred thousand forty-three six hundred fifty-six dollars (\$2,843,656.00) for the 2002 fund year. Exhibit 1.

4. The Examination also revealed that subsequent adjustments resulting from payroll audit revisions reduced the 2002 fund year deficit by nine thousand three hundred sixty-nine dollars (\$9,369.00) to two million eight hundred thirty-four thousand two hundred eighty-seven dollars (\$2,834,287.00). *Id.*

5. The Examination has additionally revealed that TTA is projected to have a deficit of approximately four million dollars (\$4,000,000.00) for the fund year ending December 31, 2003, based on the August 28, 2003, financial records of TTA, exclusive of the 2002 fund year deficit of two million eight hundred thirty-four thousand two hundred eighty-seven dollars (\$2,834,287.00). *Id.*

6. The Examination has not demonstrated that TTA has fund year reserves from a fund year other than 2002 upon which to draw in order to correct the deficiency or that TTA has administrative fund reserves upon which to draw in order to correct the deficiency.

7. The Examination has indicated that TTA has not conducted an assessment of its members to make up the deficit for fund year 2002 within thirty (30) days of such deficit, as required by Tenn. Comp. R. & Regs. 0780-1-54-.18(3).

8. The Department sent a letter to counsel for TTA on July 24, 2003, directing TTA, among other things, to conduct an assessment of its members (a copy of the letter is attached hereto and marked as Exhibit 2). TTA did not conduct the assessment as directed in the Department's July 24, 2003 letter.

9. Additionally, the Examination revealed the following additional problems with TTA's rating calculations:

- a. TTA calculated premium for four (4) of its members using incorrect class code rates;
- b. National Council on Compensation Insurance ("NCCI") procedures, which are mandated in Tennessee for all workers' compensation insurers and self-insurers, provide that one-third (1/3) of the total contract price for "owner/operator" vehicles must be included as payroll of the drivers for purposes of calculating premium. TTA departed from NCCI procedures by instead using one-fourth (1/4) of the total contract price;
- c. TTA used inaccurate and/or incomplete claims and payroll history in determining experience rating modification factors for four (4) members;
- d. Tenn. Code Ann. § 50-9-104 specifies the eligibility requirements for a five percent (5%) drug free premium credit. TTA allowed twenty-nine (29) of its members that were not eligible under Tenn. Code Ann. § 50-9-104 to receive the full premium credit;
- e. TTA allowed one (1) of its members to have a small deductible policy and receive a small deductible credit that exceeded the credit specified by NCCI. Further, TTA did not get the required prior approval from the Department to have a deductible rating plan, as required by Tenn. Code Ann. § 56-5-313; and
- f. TTA applied NCCI schedule-rating factors to members' premiums but did not apply the plan in accordance with NCCI procedures. Furthermore, TTA's actuary did not consider the plan's effect on premium when developing the TTA's loss cost multiplier.

CONCLUSIONS OF LAW

10. Tenn. Code Ann. § 50-6-405(c)(1) provides, in pertinent part, that:

Ten (10) or more employers of the same trade or professional association may enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers as provided in subdivision (a)(2).

11. Tenn. Code Ann. § 50-6-405(h) provides that:

The commissioner of commerce and insurance may issue such rules, regulations and orders as may be necessary to properly administer the deposits, bonds and financial evidence as required in this part.

12. Tenn. Comp. R. & Regs. 0780-1-54-.15 provides that:

(1) Every workers' compensation self-insurance group shall adhere to a uniform classification system, uniform experience rating plan, and manual rules approved by the [C]ommissioner.

(2) Premium contributions to the group shall be determined by applying the manual rates and rules to the appropriate classification of each member which shall be adjusted by each member's experience credit or debit. Subject to approval by the [C]ommissioner, premium contributions may also be reduced by an advanced premium discount reflecting the group's expense levels and loss experience.

(3) Each group may be audited by an auditor acceptable to the commissioner to verify proper classifications, experience rating, payroll and rates. A report of the audit shall be filed with the [C]ommissioner in a form acceptable to the [C]ommissioner. A group or any member thereof may request a hearing on any objections to the classifications. If the [C]ommissioner determines that as a result of an improper classification a member's premium contribution is insufficient, [s]he shall order the group to assess that member an amount equal to the deficiency. If the [C]ommissioner determines that as a result of an improper classification a member's premium is excessive, [s]he shall order the group to refund to the member the excess collected. The audit shall be at the expense of the group.

13. Tenn. Comp. R. & Regs. 0780-1-54-.18 provides that:

(1) If the assets of a group are at any time insufficient to enable the group to discharge its legal liabilities and other obligations and to maintain the reserves required of it under this Act, it shall forthwith make up the deficiency or levy an assessment upon its members for the amount needed to make up the deficiency.

(2) In the event of a deficiency in any fund year, such deficiency shall be made up immediately, either from (a) surplus from a fund year other than the current fund year, (b) administrative funds, (c) assessment of the membership, if ordered by the group, or (d) such alternate method as the [C]ommissioner may approve or direct. The [C]ommissioner shall be notified prior to any transfer of surplus funds from one fund year to another.

(3) If the group fails to assess its members or to other-wise make up such deficit within thirty (30) days, the [C]ommissioner shall order it to do so.

(4) If the group fails to make the required assessment of its members within thirty (30) days after the [C]ommissioner orders it to do so, or if the deficiency is not fully made up within sixty (60) days after the date which such assessment is made, or within such longer period of time as may be specified by the [C]ommissioner, the group shall be deemed to be insolvent.

(5) In the event of the liquidation of a group, the commissioner shall levy an assessment upon its members for such an amount as the [C]ommissioner determines to be necessary to discharge all liabilities of the group, including the reasonable cost of liquidation.

14. Based upon the Findings of Fact set forth herein, the Respondent's assets are insufficient to enable the group to discharge its legal liabilities and other obligations and to maintain the reserves required of it, pursuant to Tenn. Code Ann. § 50-6-405 and Tenn. Comp. R. & Regs. 0780-1-54-.18 for the 2002 fund year and for the projected 2003 fund year.

15. Based upon the Findings of Fact set forth herein, the Respondent failed to correctly calculate premiums due from its members by:

- a. applying incorrect class code rates to certain members;
- b. deviating from NCCI procedures;
- c. using inaccurate and/or incomplete claims and payroll history in determining experience rating modification factors;
- d. allowing twenty-nine (29) of its members to receive a full premium credit, despite the fact that these members were not eligible under Tenn. Code Ann. § 50-9-104 for such a premium credit;
- e. permitting one (1) of its members to have a small deductible policy and receive a small deductible credit that exceeded the credit specified by NCCI;
- f. permitting a deductible policy and credit without the requisite prior approval from the Department to have a deductible rating plan, as provided by Tenn. Code Ann. § 56-5-313;
- g. by applying NCCI schedule-rating factors to members' premiums but not applying the plan in accordance with NCCI procedures; and
- h. through not considering the plan's effect on premium when developing TTA's loss cost multiplier.

16. TTA has not conducted an assessment of its members and has not made up the deficiency in its assets for the fund year 2002 through drawing upon surplus from a fund year other than 2002 or from surplus administrative funds. TTA has thus violated Tenn. Comp. R. & Regs. 0780-1-54-.18(1) and (2).

17. The Examination has not demonstrated that TTA has fund year reserves from a fund year other than 2002 upon which to draw in order to correct the deficiency or that TTA has administrative fund reserves upon which to draw in order to correct the deficiency, pursuant to Tenn. Comp. R. & Regs. 0780-1-54-.18(2).

NOW, THEREFORE, it is ORDERED THAT the Respondent shall, pursuant to Tenn. Comp. R. & Regs. 0780-1-54-.18(3), immediately make up the deficit in its assets to discharge its legal liabilities and other obligations and to maintain the reserves required of it by Tenn. Code Ann. § 50-6-405 for the 2002 fund year by making an assessment of its members.

TTA shall make the assessment of its members for the 2002 fund year as follows:

1. TTA shall notify its members of the assessment for the 2002 fund year deficiency within seven (7) days from the date of the entry of this Order;
2. The 2002 deficiency shall be assessed in a fair and equitable method to all TTA's members. Each member's premium shall be recalculated using the rules and rating manual of NCCI. The recalculated premium should be the amount on which each member's pro rata share of the deficiency is assessed;
3. The assessment should be made promptly and paid into TTA's premium account on or before June 30, 2004. Considering that TTA's projected deficit for the fund year 2003 is approximately four million dollars (\$4,000,000.00), exclusive of the deficit incurred during the 2002 fund year, TTA shall collect all the monies necessary to make up the deficit in the fund year 2002 prior to June 30, 2004, which is the date upon which the 2003 fund year financial statements are due;

4. TTA should collect from its members the entire amount of the assessment due within thirty (30) days or, at its option, may make the 2002 fund year assessment per the following installment schedule:
 - a. Initial installment: Fifty percent (50%) of the total assessment for the 2002 fund year is now past due, per the Department's letter to TTA of July 24, 2003, and shall be made within thirty (30) days from the date of entry of this Order;
 - b. Second installment: Twenty-five percent (25%) of the assessment for the 2002 fund year shall be due on or before January 15, 2004;
 - c. Final installment: Twenty-five percent (25%) of the assessment for the 2002 fund year shall be due on or before May 15, 2004;
 - d. TTA will furnish proof to the Department that it has complied with Paragraph 4 of this Order within five (5) days from the due date of each installment.
5. Irrevocable letters of credit shall be drawn upon each TTA member's account in favor of the amount of member's pro rata share of the assessment in the following manner:
 - a. An agreement ("Agreement") shall be executed between TTA and each of its individual members that the aforementioned Letter of Credit will not be presented for payment provided that the member makes all installments of the 2002 fund year assessment by the due date for each assessment.
 - b. The Agreement will further provide that should an individual member not make the installment payment of the 2002 fund year assessment by the due date, the amount owing will be drawn from the Letter of Credit by TTA.

Failure to abide by the terms of this Order shall result in a determination that the Respondent is insolvent and subject to liquidation of its assets, including any assessment of the members necessary to discharge all liabilities of the group, including the reasonable cost of liquidation, pursuant to Tenn. Comp. R. & Regs. 0780-1-54-.18(4)-(5) and Tenn. Code Ann. § 56-9-305.

It is so ORDERED.

ENTERED on this the 1st day of October, 2003.

Paula A. Flowers
Paula A. Flowers, Commissioner
State of Tennessee
Department of Commerce and Insurance

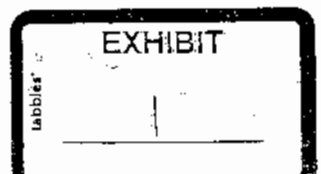
APPROVED FOR ENTRY:

KCB
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615 741 2199

Report on Examination
of the
Workers' Compensation Self-Insurance Group Fund
of the
Tennessee Trucking Association Self Insurance Group Trust

Nashville, TN
as of
December 31, 2002

Department of Commerce and Insurance
State of Tennessee
Nashville



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Nashville, TN

September 23, 2003

Honorable Paula Flowers
Commissioner of Commerce & Insurance
State of Tennessee
Nashville, TN

Commissioner:

Under authority delegated by you and in compliance with instructions, a financial examination and market conduct review is being made of the condition and affairs of the

Workers' Compensation Self-Insurance Group Fund

of the

Tennessee Trucking Association Self Insurance Group Trust

Nashville, Tennessee

hereinafter generally referred to as the "Fund" and "Trust" respectively. A report on examination limited to the Trust's rating procedures and reported premium deficiency is submitted as follows:

Introduction

This examination was arranged by the Self Insurance Section of the Insurance Division of the Department of Commerce and Insurance, State of Tennessee in accordance with T.C.A. §50-6-405 and Rule 0780-1-54-.06 of the Rules of the Department of Commerce and Insurance ("Rules"). It was commenced on May 5, 2003 by examiners of the State of Tennessee. This is the first such examination of the Trust.

Scope of Examination

The period covered hereunder is from January 1, 1995, the effective date of formation of the Trust, to the close of business on December 31, 2002, the date of this

examination. The Trust ceased operations January 1, 1998 and resumed operations effective December 1, 2001.

During the course of examination, test checks, covering selected periods, were made of income and disbursement items, and a general review was made of the Trust's operations, practices and compliance with statutes, to the extent hereinafter set forth. Examination procedures included verification of the Trust's use of approved rating procedures and manuals during the period of examination.

Approved Rating Procedures

Section 0780-1-54-.15 of the Rules & Regulations of the Department requires the Trust to adhere to a uniform classification system, uniform experience rating plan, and manual rules approved by the Commissioner. The Commissioner has prescribed that the uniform classification system to be used by self-insured trusts is to be in accordance with the rating procedures published by the NCCI. The Trust is also required to file with the Commissioner a multiplier and supporting information which shall apply to the most recently approved, currently effective advisory prospective loss costs. All multipliers are required by T.C.A. §56-5-306 to be actuarially justified and shall be certified by a member in good standing of the Casualty Actuarial Society.

Per NCCI procedures, the Trust applies its approved multiplier to advisory loss costs to develop the manual rates for specific class codes. Manual rates for each class code are then multiplied by the basis of premium (audited payroll / \$100) for each class code to calculate manual premium. Based on eligibility requirements, small deductible credits and a drug free discount of 5% can then be applied to total manual premium for all class codes to calculate subject premium. The Trust applies an experience modification factor to subject premium to calculate modified premium. Scheduled credits and debits are applied to subject premium to determine standard premium, which is the same as annual premium.

Comments

The Trust had 50 Members participate in the Fund during the 2002 policy year. A review of the rating calculations for each revealed the following:

- 1) The Trust calculated premium for four Members using incorrect class code rates.
- 2) NCCI procedures provide that one-third of the total contract price for "owner/operator" vehicles must be included as payroll of the drivers for purposes of calculating premium. The Trust used one-fourth instead of one-third.
- 3) The Trust used inaccurate and/or incomplete claims and payroll history in determining experience rating modification factors for four Members.
- 4) T.C.A §50-9-104 specifies the eligibility requirements for a 5% drug free premium credit. The Trust allowed 29 Members that were not eligible to receive the full credit.
- 5) The Trust allowed one Member to have a small deductible policy and receive a small deductible credit that exceeded the credit specified by the NCCI. The Trust did not get the required prior Departmental approval to have a deductible rating plan.
- 6) The Trust applied NCCI schedule-rating factors to Members' premium but did not apply the plan in accordance with NCCI procedures. Furthermore, the Trust's actuary did not consider the plan's effect on premium when developing the Trust's loss cost multiplier.

Recommendations

In order to comply with NCCI rating procedures and Tennessee Statutes, it is recommended that the Trust correct the above listed problems as follows:

- 1) Members' premium that was based on incorrect class code rates should be revised using effective rates that coincide with the effective dates of the policies.
- 2) Adjustments to Members' premium should be made for the use of proper owner/operator payroll percentages.
- 3) Premium for Members that was based on incomplete or inaccurate experience rating modification factors should be corrected using accurate factors.
- 4) Additional premium should be billed to Members that were ineligible to receive a drug free discount.
- 5) The Trust should not allow the use of a deductible rating plan in 2002 and should reverse the effects its use had on 2002 premium and claims.
- 6) Members' premium for 2002 should not be adjusted by the NCCI schedule rating factors if they are not applied in accordance with NCCI schedule rating procedures or considered by the Trust's actuary.

In accordance with Section 0780-1-54-.15(3) of the Rules, it is recommended that the Commissioner order an assessment be made of the Trust's Members in an

amount equal to the premium deficiency attributed to the above problems. For Members whose premium is determined to have been excessive, the Trust should refund to the Member the excess collected. (The assessment should be based on the attached schedule Exhibit I of Members' premium adjustments for the 2002 fund year). Similar problems were noted in the way the Trust calculated Members' premium for the 2003 fund year, therefore it is also recommended that the Trust make the same corrections to 2003 premium.

Deficit for 2002 Fund Year

The Trust has provided the Department with independently audited financial statements for year ending December 31, 2002 that indicate there is a deficit of \$2,843,656 for the 2002 fund year. However, subsequent adjustments resulting from payroll audit revisions reduced this deficit by \$9,369 to \$2,834,287. The Department, by letter dated July 24, 2003, instructed the Trust to make up this deficit by levying an assessment upon its Members for the amount needed to make up the deficiency. Because the Trust has failed to make the assessment in 30 days as required by Section 0780-1-54-.18 of the Rules, it is recommended that the Commissioner order the assessment pursuant to the Rules. Each Member's proportionate share of the assessment should be based upon the ratio of their 2002 premium as adjusted for the incorrect calculations noted above to total premium for 2002 (per the attached Exhibit I).

Deficit for 2003 Fund Year

A review of records provided by the Trust's Administrator and its Service Company indicate the Trust is also operating at a loss for the 2003 fund year. As of August 28, 2003, the Trust had earned premium for 2003 of \$4,394,853 and incurred claims of \$4,164,435 (95% of premium). This is exclusive of provisions for IBNR claims and administrative expenses which were approximately 30% of incurred claims and 38% of earned premium respectively for 2002. All combined, this is equivalent to a projected deficiency of approximately 61% of premium as of August 28, 2003. If the Trust's current trend in operations remains unchanged through December 31, 2003, this would result in a deficit for the 2003 fund year alone of approximately \$4,000,000. This

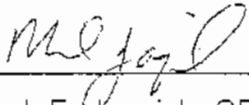
is exclusive of the \$2,834,287 deficit for the 2002 fund year referred to above. The Trust will need to levy another assessment on its Members after the conclusion of the 2003 fund year. The actual amount of the 2003 assessment will be dependent on the final payroll audits of the Trust's Members for the 2003 fund year, the Trust's actuarial projection of IBNR claims and its independent audit of the December 31, 2003 financial statements, all of which are due to be completed and filed with this Department no later than June 30, 2004.

Conclusion

The customary insurance examination practices and procedures developed by the Self Insurance Section of the Department of Insurance, State of Tennessee have been followed in connection with the examination of the Fund of the Tennessee Trucking Association Self Insurance Group Trust.

The courteous cooperation of the officers and employees of the Trust's Administrator, Service Company and its independent accountants extended during the course of examination is hereby acknowledged.

Respectfully submitted,



Mark E. Jaquish, CFE, CPA
Insurance Examiner
State of Tennessee

Examination Affidavit

The undersigned deposes and says that he has duly executed the attached examination report of Tennessee Trucking Association Self Insurance Group Trust dated September 23, 2003 and made as of December 31, 2002 on behalf of the Tennessee Department of Commerce and Insurance. Deponent further says he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

Mark Jaquish

Mark Jaquish
Insurance Examiner
State of Tennessee

County Davidson
State Tennessee

Subscribed and sworn to before me
this 26th day of
September, 2003.

Heben H. Dorsey
(Notary) Expires 03/25/06

EXHIBIT I

Member Number	Net Due From Member
TTA1001-01	94,524
TTA1002-01	54,399
TTA1003-01	4,716
TTA1004-01	75,261
TTA1005-01	173,438
TTA1006-01	137,585
TTA1007-01	57,385
TTA1008-01	14,741
TTA1009-01	20,075
TTA1010-01	40,444
TTA1011-01	34,043
TTA1012-01	7,183
TTA1013-01	26,635
TTA1014-01	72,811
TTA1015-01	159,230
TTA1016-01	32,408
TTA1017-01	13,357
TTA1018-01	79,743
TTA1019-01	18,368
TTA1020-01	(1,875)
TTA1021-01	127,510
TTA1022-01	70,741
TTA1023-01	54,980
TTA1024-01	7,058
TTA1025-01	1,794
TTA1026-01	20,465
TTA1027-01	92,976
TTA1028-01	21,457
TTA1029-01	17,210
TTA1030-01	77,764
TTA1031-01	8,925
TTA1032-01	7,220
TTA1033-01	110,938
TTA1034-01	11,365
TTA1035-01	20,421
TTA1036-01	16,625
TTA1037-01	26,523
TTA1038-01	20,037
TTA1039-01	169,061
TTA1040-01	55,162
TTA1041-01	6,018
TTA1042-01	11,290
TTA1043-01	5,802
TTA1044-01	731,867
TTA1045-01	4,584
TTA1046-01	207

Member Number	Net Due From Member
TTA1047-01	12,244
TTA1048-01	9,108
TTA1049-01	144
TTA1050-01	319
TOTAL	<u>\$ 2,834,287</u>

EXHIBIT I

Member Number	Additional Premium	Recommended Assessment	Net Due From Member
TTA1001-01	40,865	53,659	94,524
TTA1002-01	25,384	29,015	54,399
TTA1003-01	-	4,716	4,716
TTA1004-01	926	74,335	75,261
TTA1005-01	5,363	168,075	173,438
TTA1006-01	49,406	88,179	137,585
TTA1007-01	17,263	40,122	57,385
TTA1008-01	5,234	9,507	14,741
TTA1009-01	3,956	16,119	20,075
TTA1010-01	6,247	34,197	40,444
TTA1011-01	14,593	19,450	34,043
TTA1012-01	2,240	4,943	7,183
TTA1013-01	11,067	15,568	26,635
TTA1014-01	30,514	42,297	72,811
TTA1015-01	73,329	85,901	159,230
TTA1016-01	4,180	28,228	32,408
TTA1017-01	-	13,357	13,357
TTA1018-01	6,658	73,085	79,743
TTA1019-01	5,516	12,852	18,368
TTA1020-01	(7,846)	5,971	(1,875)
TTA1021-01	-	127,510	127,510
TTA1022-01	32,096	38,645	70,741
TTA1023-01	16,539	38,441	54,980
TTA1024-01	(827)	7,885	7,058
TTA1025-01	(345)	2,139	1,794
TTA1026-01	-	20,465	20,465
TTA1027-01	(20,158)	113,134	92,976
TTA1028-01	(17,210)	38,667	21,457
TTA1029-01	2,220	14,990	17,210
TTA1030-01	28,966	48,798	77,764
TTA1031-01	1,148	7,777	8,925
TTA1032-01	(8,244)	15,464	7,220
TTA1033-01	34,183	76,755	110,938
TTA1034-01	1,588	9,777	11,365
TTA1035-01	(5,440)	25,861	20,421
TTA1036-01	(20,847)	37,472	16,625
TTA1037-01	10,894	15,629	26,523
TTA1038-01	8,106	11,931	20,037
TTA1039-01	72,198	96,863	169,061
TTA1040-01	22,673	32,489	55,162
TTA1041-01	-	6,018	6,018
TTA1042-01	13	11,277	11,290
TTA1043-01	744	5,058	5,802
TTA1044-01	391,830	340,037	731,867
TTA1045-01	(1,917)	6,501	4,584
TTA1046-01	(8,016)	8,223	207

Member Number	Additional Premium	Recommended Assessment	Net Due From Member
TTA1047-01	3,196	9,048	12,244
TTA1048-01	(255)	9,363	9,108
TTA1049-01	(1,867)	2,011	144
TTA1050-01	(369)	688	319
TOTALS	<u>\$ 835,794</u>	<u>\$ 1,998,493</u>	<u>\$ 2,834,287</u>



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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NASHVILLE, TENNESSEE 37243-5065
615-741-6007

PHIL BREDESEN
GOVERNOR

PAULA A. FLOWERS
COMMISSIONER

July 24 2003

VIA FACSIMILE (615.256.8197) AND US FIRST CLASS MAIL

Dan H. Elrod, Esq.
Miller and Martin, LLP
1200 One Nashville Place
150 Fourth Avenue North
Nashville, TN 37219-2453

RE: Tennessee Trucking Association Self-Insurance Group Trust

Dear Dan:

We have reviewed the July 17, 2003, proposal of the Tennessee Trucking Association Self-Insurance Group Trust [hereinafter referred to as the "Trust"] regarding the satisfaction of its 2002 deficit. The Trust proposes to correct the deficit by assessing its members in installments. While the Department does not object to the Trust's general concept of installment payment of the assessments of the members to satisfy the 2002 premium deficiency, the following issues need to be addressed:

1. The 2002 deficiency must be assessed in a fair and equitable method to all the Trust's members.

Each member's premium has been recalculated using the NCCI's rules and rating manual and presented to the Trustees. The recalculated premium should be the amount on which each member's pro rata share of the deficiency will be assessed.

2. The assessment should be made promptly and paid into the Trust's premium account before June 30, 2004.

Taking into consideration that a potential deficit may be developing for the calendar year 2003, Commissioner Flowers desires that all of the 2002 deficit be collected prior to the that the 2003 financial statements are due (on or before June 30, 2004). The department's proposed installment plan for paying the deficit is as follows:

- Initial installment -- 50% of the assessment is due and should be paid on or

EXHIBIT

subles

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before September 1, 2003.

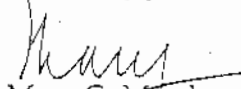
- Second installment -- 25% of the assessment is due and should be paid on or before January 15, 2004.
- Final installment -- 25% of the assessment is due and should be paid on or before May 15, 2004.

3. Irrevocable letters of credit drawn on each member's account should be considered to guarantee the payment of the assessed amounts.

Each member should open a line of credit, ("LOC"); to be drawn in favor of the Trust in the amount of the member's pro rata share of the assessment. An agreement should be executed between the Trust and the individual member that the LOC will not be presented for payment provided that the member makes all installments in a timely manner, but, if a member fails to make timely payment of an installment the amount due will be drawn on the LOC by the Trust.

In addition to addressing the 2002 deficit in the manner set forth above, Commissioner Flowers will require that the Order of Supervision stay in place until the Trust's financial condition is satisfactorily resolved, including, ultimately, the correct calculation of premiums. If you require any additional information regarding the Department's position on this matter or have any questions, please give me a call.

Very truly yours,


Mary G. Moody
General Counsel
615-253-2058

MGM/mb

cc: Paula A. Flowers, Commissioner
Daphne D. Smith, Acting Assistant Commissioner
John Morris, Chief Counsel for Insurance ✓
Mark Brothers, Director of Self-Insurance
Mark Jaquish, Examiner in Charge

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E-MAIL ADDRESS:
dcirod@millermartin.com

October 7, 2003

VIA FACSIMILE and U.S. MAIL

Mr. John F. Morris
Chief Counsel for Insurance and TennCare
Tennessee Department of Commerce and Insurance
Davy Crockett Tower, Suite 500
500 James Robertson Parkway
Nashville, TN 37243-0565

RE: In the Matter of Tennessee Trucking Association Self Insurance Group Trust
Order No. 03-127

Dear Mr. Morris:

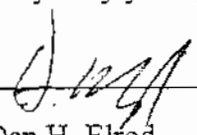
This letter confirms our conversation regarding the Order of Assessment issued by the Commissioner in connection with the matter referenced above.

On behalf of the Tennessee Trucking Association Self Insurance Group Trust, it is our desire to appeal the portion of the Order of Assessment that requires recalculation of member premiums for 2002. It is the position of the Tennessee Trucking Association Self Insurance Group Trust that the premium calculations for members in 2002 were in compliance with applicable statutes and regulations, and that no recalculation of 2002 premiums is required.

We would appreciate your advice as to the next step to be taken in order to proceed with the appeal process.

Thank you for your attention to this matter.

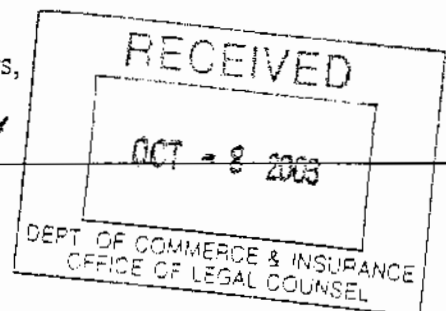
Very truly yours,


Dan H. Elrod

DHE:cgb

cc: Mr. Nick Marino

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DAN H. ELROD
NASHVILLE OFFICE

January 16, 2004

E-MAIL ADDRESS:
delrod@millermartin.com

VIA FACSIMILE AND U.S. MAIL

John F. Morris, Esquire
Chief Counsel for Insurance and TennCare
Tennessee Department of Commerce and Insurance
Davy Crockett Tower, 5th Floor
500 James Robertson Parkway
Nashville, TN 37243

RE: *Tennessee Trucking Association Self Insurance Group Trust*

Dear John:

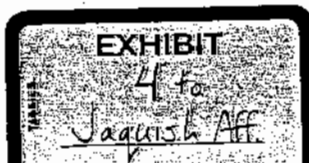
In recent a recent conversation, you asked the Tennessee Trucking Association Self Insurance Group Trust to address three items, and this letter is our response.

1. Number of members who have paid the first installment of the 2002 assessment.
As of this date, seven (7) members have paid the first installment. Payments received total \$225,869.00. The largest member has paid its first installment, and, if requested, we will be happy to provide a complete list of members who have paid.

2. Governance of the Fund while inactive. We propose that the existing Board of Directors continue to act as the Board of the fund while it is inactive. It is my understanding that the existing Board members have agreed to continue in this capacity. If a sufficient number of new members express an interest in reactivating the Fund, then a proposed new Board would be elected by the prospective members.

3. Payment of claims while the Fund is inactive. We propose that the current service company, CCMSI, continue to handle claims to conclusion, and that CCMSI be paid on a per claim basis. This expense would be allocable to the year in which the claim was incurred. We

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John F. Morris, Esquire
January 16, 2004
Page 2

do not yet have a quote from CCMSI for handling claims on a per claim basis, but we will provide this information as soon as it is received.

Please let me know if you have any questions regarding the above, or if you need any additional information.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Dan H. Elrod', written over a horizontal line.

Dan H. Elrod

DHE:cgb

cc: Mr. Nick Marino